

May 4, 2018

Mr. Eugene Vurgaftman
Baltimore County Public Schools
9610 Pulaski Park Dr. Suite 204
Baltimore MD 21220

Re: Overlea High School, 5401 Kenwood Ave. 21206
Forest Conservation Variance
Tracking # 06-18-2700

Dear Mr. Vurgaftman:

A request for a variance from the Baltimore County Code Article 33, Title 6 Forest Conservation was received by the Department of Environmental Protection and Sustainability (EPS) on April 9, 2018. This request proposes to base the afforestation required by Section 33-6-111 of the Forest Conservation Law on the 1.9-acre limit of disturbance rather than the entire 29.4-acre school campus. The proposed redevelopment activities include parking lot and walkway improvements involving areas of existing impervious surfaces and areas in lawn. There are no impacts to forest, specimen trees, or trees of special concern.

The Director of EPS may grant a special variance to the Forest Conservation Law in accordance with criteria outlined in Section 33-6-116(d)(1) of the Code. There are six (6) criteria listed in Subsection 33-6-116(d) and (e) that shall be used to evaluate the variance request. One (1) of the criteria under Subsection 33-6-116(d) must be met, and all three (3) of the criteria under Subsection 33-6-116(e) must be met, in order to approve the variance.

The first criterion (Subsection 33-6-116(d)(1) of the Code) requires the petitioner show the land in question cannot yield a reasonable return if the requirement from which the special variance is requested is imposed and will deprive the petitioner of beneficial use of his property. The applicant proposes to make improvements to a school facility that existed prior to the effective date of the Forest Conservation Law. These improvements are necessary to provide improved parking and walking access on the campus. However, this criterion is not applicable to this project given that the facility is publicly owned.

The second criterion (Subsection 33-6-116 (d)(2) of the Code) requires that the petitioner show that his/her plight is due to unique circumstances and not the general conditions of the neighborhood. The proposed improvements are required due to unique

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circumstances associated with the Overlea High School campus rather than general conditions in the neighborhood. Therefore, the second criterion has been met.

The third criterion (Subsection 33-6-116(d)(3) of the Code) requires that the petitioner show that the special variance requested will not alter the essential character of the neighborhood. The project involves parking lot and walkway improvements within the existing school access, parking, and recreation areas so the use and essential character of the neighborhood will remain the same. Therefore, this criterion has been met.

The fourth criterion (Subsection 33-6-116(e)(1) of the Code) requires that the granting of the special variance will not adversely affect water quality. There are no wetland, stream, floodplain, or forest buffer impacts associated with this project. Also, there are no impacts to forests, specimen trees, or other trees of special concern. In addition, the project must meet stormwater management requirements. Therefore, granting of the special variance will not adversely affect water quality, and this criterion has been met.

The fifth criterion (Subsection 33-6-116(e)(2) of the Code) requires that the special variance request does not arise from a condition or circumstance that is the result of actions taken by the petitioner. Prior to requesting this variance, the petitioner has taken no action on the property related to this project. Therefore, the fifth criterion has been met.

The sixth criterion (Subsection 33-6-116(e)(3) of the Code) requires that the Director of EPS find that the special variance, as granted, would be consistent with the spirit and intent of Article 33 of the Baltimore County Code. Allowing the afforestation obligation to be based on the limit of disturbance for the improvements to an existing school campus would be consistent with the spirit and intent of the Forest Conservation Law. This is especially true given that no impacts to forest or adverse impacts to water quality would result from the proposed development. Therefore, this criterion has been met.

Based on our review, this Department finds that the required criteria have been met. Therefore, the requested variance is hereby approved, in accordance with Section 33-6-116 of the Baltimore County Code, with the following conditions:

1. The 0.3-acre afforestation requirement for this project shall be met by paying a \$6,534.00 fee-in-lieu to the Baltimore County Forest Conservation Fund, or by purchasing credit at an EPS-approved forest retention bank. A bank authorization letter is enclosed for your use. Prior to issuance of any permits,

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the fee shall be paid to EPS, or the signed bank letter shall be returned to EPS indicating that retention bank credit has been purchased.

2. A forest conservation plan (FCP) must be submitted, and approved by EPS prior to issuance of any permits. The existing grading plan may be used as a base plan for the FCP provided that it is also labeled as a Forest Conservation Plan, and a note is added to explain how forest conservation was met for this project.
3. This variance approval does not exempt future redevelopment of this site from complying with the Baltimore County Forest Conservation Law.

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and an amended variance request.

Please sign the statement below as the Baltimore County Public School representative and return a signed copy of this letter to this Department prior to grading permit issuance.

If you have any questions regarding this correspondence, please call Paul Dennis at (410) 887-3980.

Sincerely yours,

David V. Lykens
Deputy Director

DVL/pad

I/we agree to the above conditions to bring the referenced Baltimore County Public School site into compliance with the Baltimore County Forest Conservation Law.

Baltimore County Public Schools Representative Signature

Date

Printed Name